IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

J U D G M E N T

S.B. CIVIL MISC. APPEAL NO.1432/2007

Babu Lal

Vs.

Gopa Ram and Ors.

Date of Judgment :: 02nd May 2007.

PRESENT

HON'BLE MR. JUSTICE P.B.MAJMUDAR

Mr.ML Khatri, for the appellant.
Mr.VK Mathur, for the respondents.

BY THE COURT :

REPORTABLE

With the consent of learned counsel for the parties, the matter is disposed of at this stage itself.

The appellant is the original claimant who instituted Claim Petition No. 79/2002 in view of personal injury which he sustained in a motor accident. The appellant claimant while driving his scooter met with an accident and sustained injuries.

According to the claimant, because of rash and negligent driving of the driver of bus of respondent Corporation, the said accident occurred in which he sustained fractures of two fingures. The Tribunal after considering the evidence on record allowed the claim petition and awarded Rs. 20,000/- in favour of claimants with 6% interest from the date of award.

Being aggrieved by the aforesaid award, the claimant has filed this appeal for enhancement of compensation. However, at the time of arguments, learned counsel for the claimant restricted his prayer and submitted that the Tribunal has gravely erred in awarding interest only at the rate of 6% p.a. that too from the date of award. It is submitted that the Tribunal should have awarded the aforesaid interest from the date of application and not from the date of award. On the other hand, the learned counsel Mr Mathur, appearing for respondents submitted that so far as fixation of 6% interest is concerned, since the date on which the award was passed, 6% was the prevailing rate, and therefore, the Tribunal has rightly assessed the interest at the said rate. He, however, submitted that the question regarding payability of interest either from the date of award or from the date of application, is left to the discretion of the Court.

I have heard the learned counsel for the appellant and also gone through the award passed by the Tribunal.

The only question which requires consideration in this case is about rate of interest as well as from the date the same is payable. In this connection, reference is required to be made to the decision of the Hon'ble Supreme Court in Kaushnuma Begum (Smt.) and Ors. Vs. New India Assurance Co. Ltd. and Ors. (2001) 2 SCC 9 wherein in Para 24, the Apex Court held as under :

> "Now, we have to fix up the rate of interest. Section 171 of the MV Act empowers the Tribunal to direct that "in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as may be specified in this behalf". Earlier, 12% was found to be the reasonable rate of simple interest. With a change in economy and the policy of Reserve Bank of India the interest rate has been lowered. The nationalised banks are now granting interest at the rate of 9% on fixed deposits for one year. We, therefore, direct that the compensation amount fixed hereinbefore shall bear interest at the rate of 9% per annum from the date of the claim made by the appellants. The amount of Rs.50,000 paid by the Insurance Company under Section 140 shall be deducted from the principal amount as on the date of its payment, and interest would be recalculated on the balance amount of the principal sum from such date."

In the instant case, the Tribunal has not given any

reason as to why the claimant is not entitled to interest from the date of application. It is not a case where the claimant has filed the application at belated stage. Under normal circumstances, when the claimant is allowed interest, it has to be paid from the date of submitting application because whatever time might have been consumed for deciding the case, the claimant is not required to be blamed for not giving interest from the date of application and interest is usually granted from the date of filing of application and not from the date of passing of the award. There is absolutely no justification in giving interest from the date of award and not from the date of application. Thus, the claimant is entitled to interest on the awarded amount from the date of application and not from the date of award. So far as rate of interest is concerned, it is no doubt true that the Hon'ble Supreme Court in the aforesaid case has granted interest at the rate of 9%, Mr. Mathur, counsel for the respondents, however submitted that at the time when the award was made, prevailing rate of interest was 6% and there is no material available before the Court to interefere in this aspect. It is however, required to be noted that the application was submitted as back as in the year 2002.

Considering the aforesaid aspect of the matter and considering the fact that application was filed as far back as in

2002 when interest rate was 9%, and considering the observations made by the Supreme Court in Kaushnuma Begum (supra) in Para 24, in my view, it would be just and proper to modify the award of the Tribunal by awarding interest @ 9% instead of 6% that too from the date of filing the application.

Accordingly, the appeal is partly allowed by modifying the order of the Tribunal to the extent that instead of 6% interest awarded by the Tribunal from the date of award, the claimant shall be entitled to 9% interest from the date of application. In view of this judgment for whatever amount, the claimant is entitled, the same shall be paid to him within a period of two months from today. There shall, however be no order as to costs.

(P.B.MAJMUDAR), J.

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